

AN COIMISIÚN PLEANÁLA
LDG- 082075-25
ACP- _____
14 AUG 2025
Fee: € 220 Type: Pmo
Time: 10.33 By: Ray Post

Michael O Callaghan
Cordy Enterprises Ltd
Knockskehy
Tullylease
Charleville
Co. Cork
P56 N526

13th of August 2025

The Secretary,

An Bord Pleanála
64 Malborough Street
Dublin 1
D01 V902

Re: Appeal under Section 5 of the Planning and Development Act 2000 (as amended)
Cork County Council Ref: [D/273/25]

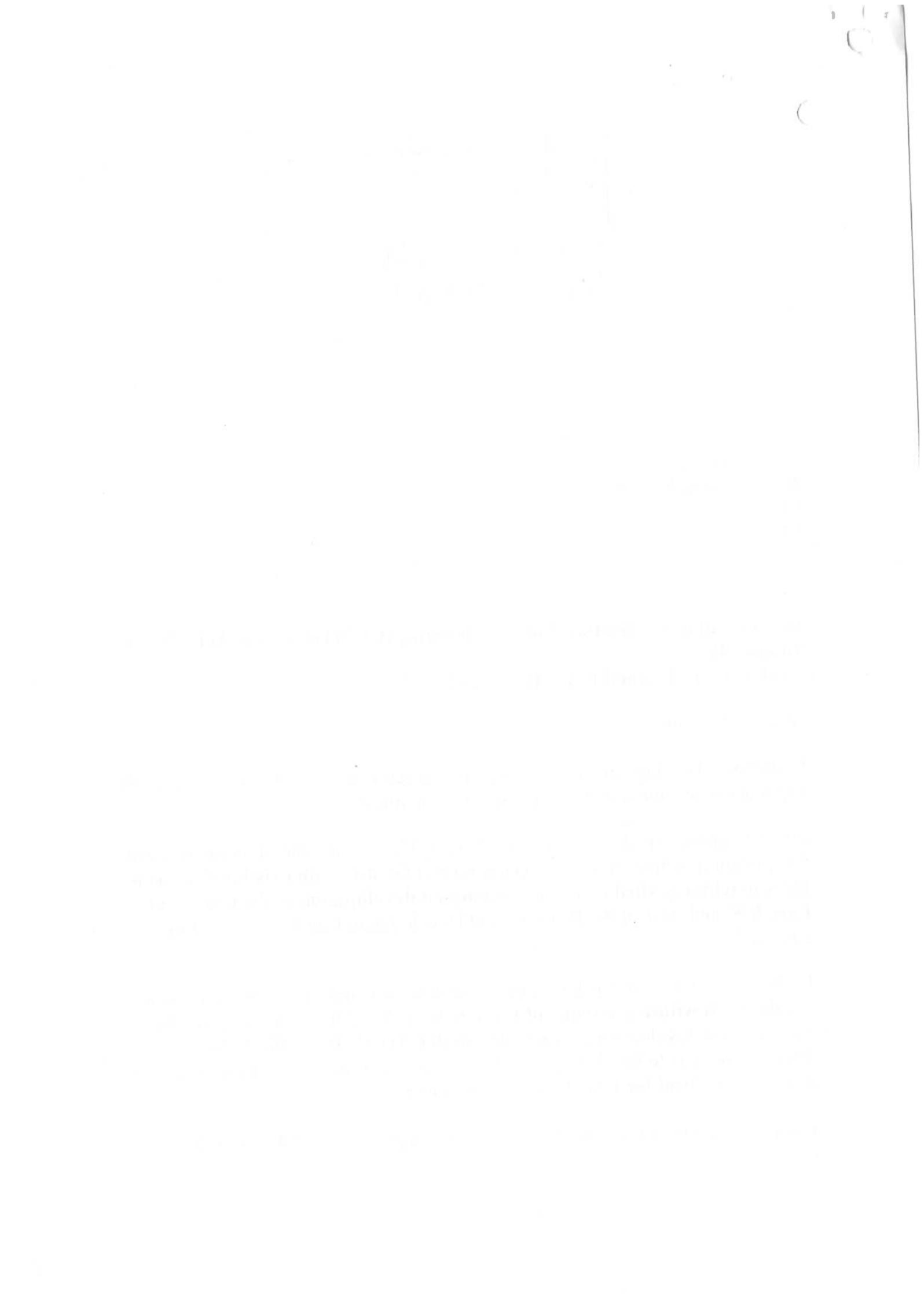
Dear Sir/Madam,

I, Michael O Callaghan am the owner and director of Cordy Enterprises Ltd, the applicant in the above-referenced Section 5 application.

I wish to appeal the decision of Cork County Council in relation to my Section 5 application, which sought a declaration that the **use of an existing shed as a farm machinery shed** constitutes **exempted development** under **Class 9 of Part 3, Schedule 2** of the Planning and Development Regulations 2001 (as amended).

In the decision issued, Cork County Council acknowledged that the proposed use **does fall within the scope of Class 9**, but refused the declaration on the basis that the development is **excluded under Article 9(1)(viii)** of the Regulations, due to the shed being the subject of a prior enforcement notice and a previous **refusal for retention as a dog kennel**.

I respectfully submit that the Council has misapplied Article 9(1)(viii) in this context.



Grounds of Appeal:

1. **Different Use, Different Legal Basis**

The previous retention application related to use of the shed as a **commercial dog kennels**, which was refused.

The current Section 5 application seeks a declaration for a **distinct and materially different use** — that of a **farm machinery storage shed** for agricultural purposes. This is clearly a separate planning matter, and its exempt status must be assessed independently.

2. **No Structural Alteration Proposed**

Article 9(1)(viii) removes exemption only where development consists of the **alteration of an unauthorised structure**. In this case, no alteration to the structure is proposed — the Section 5 application relates solely to the **use of the existing structure** as a farm machinery shed. Therefore, Article 9(1)(viii) does **not apply** in this instance.

3. **Planning Merits Must Be Considered**

The planning authority is obliged under Section 5 of the Planning and Development Act to make a determination on whether a specific development is or is not exempt. The presence of an enforcement notice or a past retention refusal does **not negate this obligation**, nor does it automatically render all future uses of the structure unauthorised.

4. **Established Jurisprudence from An Bord Pleanála**

In several similar appeals, An Bord Pleanála has upheld that a structure may still qualify for exemption for a new or alternative use, even where enforcement action or previous refusals are on file — provided the new use falls clearly within a class of exempted development and does not involve physical alteration or intensification.

Conclusion:

In previous cases, the Board has consistently held that the existence of an enforcement notice or a prior retention refusal does not prevent a valid determination under Section 5 where a new use is proposed that falls within exempted development. In this case, the shed is not being structurally altered, and the proposed use aligns fully with Class 9. Accordingly, Article 9(1)(viii) does not apply.

I respectfully request that the Board overturn the decision of Cork County Council and confirm that the proposed use of the existing structure as a **farm machinery shed** constitutes **exempted development** under Class 9 of the Regulations, and that Article 9(1)(viii) does **not** disqualify this exemption in the present case.

Please find enclosed the following:

- Copy of Cork County Council's decision letter.
- €220 fee.
- Copy of my original Section 5 application (if required).
- Drawings of the building.
- Maps.
- Supporting photos of the building.

I am available to provide any further details, photographs, or mapping required, I hope the enclosed details help make my case clear, and I'd be very grateful for a positive decision so I can put the shed to good use for its intended agricultural purpose. Thank you sincerely for taking the time to review my appeal.

Yours faithfully

Michael O Callaghan

Director, Cordy Enterprises Ltd.

Signed: Michael O Callaghan

Date: 13th of August 2025

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CORK COUNTY COUNCIL APPLICATION
FOR SECTION 5 DECLARATION OF EXEMPTION

APPLICANT CHECKLIST

(Please tick ✓)

- 4 No. Copies of Application Form:**
- 1 No. Copy of Contact Details:**
- 4 No. Copies 6" O.S. Maps:**
- 4 No. Copies 25" O.S. Maps:**
- 4 No. Copies of Site Layout Plan:**
- 4 No. Copies Scaled Drawings of Development:**
- €80 Application Fee:**

✓
✓
✓
✓
✓
✓
✓

FOR OFFICE USE ONLY

Receipt No.	
Cash/Cheque/ Credit Card	
Date	
Declaration Ref. No.	

DATE STAMP HERE

You should make sure that you are satisfied that any information/documentation that you submit is appropriate to be viewed by the public. Please do not submit any information that you do not want 3rd parties to view.

In the case of a Declaration of Exemption for Land Reclamation, the following additional information is required:

- A copy of the details submitted to the Council's Environment Department (Inniscarra) for a Waste Licence Permit
- Correspondence from Teagasc (detailing how the land reclamation would benefit the land in question for agricultural purposes)
- Details of existing and proposed levels
- Details of fill material and duration of fill.

DATA PROTECTION

The planning process is an open and public one. In that context, all applications for Declarations of Exemption are made available for public inspection.

Personal information collected by Cork County Council is done so in order for us to process your application for a Section 5 Declaration of Exemption. Legally we can process this information as it is necessary for us to comply with our statutory/legal obligations. The protection of our personal data is a key priority for the Council and your data will be processed in line with our Privacy policy which is available at <http://www.corkcoco.ie/Privacy-Policy> or hardcopy from our offices at County Hall, Carrigrohane Road, Cork, Ireland. Should you have any questions about our privacy policy or the information we hold about you, please contact us by email to dpo@corkcoco.ie or write to us at Data Protection Officer, Cork County Council, County Hall, Carrigrohane Road, Cork, Ireland.

1. **NAME OF APPLICANT: (ADDRESS TO BE SUPPLIED AT QUESTION A - CONTACT DETAILS)**

CORDY ENTERPRISES LTD.

2. **POSTAL ADDRESS OF LAND OR STRUCTURE FOR WHICH DECLARATION OF EXEMPTION IS SOUGHT:**

KNOCKOFF UPPER, MEELIN, Co. CORR.
GRID REF. R 29954, 12817.
ITM CENTRE PT COORDS 529894, 612815

3. **QUESTION/DECLARATION DETAILS:**

Please state the specific question for which a Declaration of Exemption is sought

Note: Only works listed and described under this section will be assessed under the Section 5 Declaration of Exemption

This application is under agri exemption 'Type 4'
- A store, barn, shed etc. not exceeding 300m² in
floor area. The existing structure to be used as a
dry store/machinery shed is 219m². There are no other
Type 4 structures within 100m. It is more than 10m
from a public road + the height is 4.87m. There
are no public buildings or private dwellings within 100m.
The building will not be used for any other activity
other than a machinery shed/dry store.
We hope that we have covered all the required criteria
to satisfy the requirements for this Section 5 Exemption
and look forward to your decision in due course.

The following table shows the results of the experiment conducted on the 15th of June 1954. The data was collected from the field observations and laboratory tests. The results are presented in the following table:

Time (min)	Temperature (°C)	Humidity (%)	Wind Speed (m/s)
0	25.0	65.0	1.5
5	25.5	66.0	1.5
10	26.0	67.0	1.5
15	26.5	68.0	1.5
20	27.0	69.0	1.5
25	27.5	70.0	1.5
30	28.0	71.0	1.5
35	28.5	72.0	1.5
40	29.0	73.0	1.5
45	29.5	74.0	1.5
50	30.0	75.0	1.5
55	30.5	76.0	1.5
60	31.0	77.0	1.5
65	31.5	78.0	1.5
70	32.0	79.0	1.5
75	32.5	80.0	1.5
80	33.0	81.0	1.5
85	33.5	82.0	1.5
90	34.0	83.0	1.5
95	34.5	84.0	1.5
100	35.0	85.0	1.5

The data indicates a steady increase in both temperature and humidity over the 100-minute period. The wind speed remained constant at 1.5 m/s throughout the experiment.

4. APPLICATION DETAILS:

Answer the following if applicable. Note: Floor areas are measured from the inside of the external walls and should be indicated in square metres (m²)

(a) Floor area of existing/proposed structure(s):	219m ²
(b) If a domestic extension is proposed, have any previous extensions/structures been erected at this location after 1 st October, 1964 (including those for which planning permission has been obtained):	Yes <input type="checkbox"/> No <input type="checkbox"/> If yes, please provide floor areas (m ²) and previous planning reference(s) where applicable: N/A
(c) If a change of use of land and/or building(s) is proposed, please state the following: Existing/previous use _____ _____ Proposed use _____ _____	N/A
(d) Are you aware of any enforcement proceedings connected to this site?	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> If yes, please state relevant reference number(s):

5. LEGAL INTEREST OF APPLICANT IN THE LAND/STRUCTURE:

Please tick appropriate box to show applicant's legal interest in the land or structure:	A. Owner <input type="checkbox"/>	B. Other <input checked="" type="checkbox"/>
Where legal interest is "Other", please state your interest in the land/structure:	The applicant's mother owns the site.	
If you are not the legal owner, please state the name of the owner/s (address to be supplied at Question C in Contact Details):		

6. PROTECTED STRUCTURE DETAILS / ARCHITECTURAL CONSERVATION AREA:

Is this a Protected Structure/Proposed Protected Structure or within the curtilage of a Protected Structure: Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
If yes, has a Declaration under Section 57 of the Planning & Development Act 2000 been requested or issued for the property by the Planning Authority: Yes <input type="checkbox"/> No <input type="checkbox"/>
If yes, please state relevant reference No. _____
Is this site located within an Architectural Conservation Area (ACA), as designated in the County Development Plan? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

7. APPROPRIATE ASSESSMENT:

Would the proposed development require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site (SAC, SPA etc)? Yes No

8. DATA PROTECTION DECLARATION:

In order for the Planning Authority to process the personal data you have provided, your consent is required. By ticking the box below, you consent to the Planning Authority processing the personal data provided by you in line with the terms of Cork County Council's Privacy Policy available at <http://www.corkcoco.ie/privacy-statement-cork-county-council> or in hardcopy from any Council office; and to having your information processed for the following purposes:

Processing of your Declaration of Exemption application by the Planning Authority

I give permission for my personal information to be processed for the purpose stated above

Signed (By Applicant Only)	Michael O Callaghan
Date	23/06/25

GDPR Special Categories of data / Sensitive Personal data - Explicit Consent

Where Special Categories of personal data / sensitive personal data are provided as part of / in support of a declaration application, **explicit consent** to the processing of the special categories of data must be given by the person to whom the data refers, namely the Data Subject.

Special Categories of data / Sensitive Personal data include:

- Race
- Ethnic origin
- Political opinions
- Religion
- Philosophical beliefs
- Trade union membership
- Genetic data
- Biometric data
- Health data
- Concerning a natural person's sex life
- Sexual orientation

In order for the Planning Authority to process the sensitive personal data you have provided, your consent is required. By ticking the box below, you consent to the Planning Authority processing the personal data provided by you in line with the terms of Cork County Council's Privacy Policy available at <https://www.corkcoco.ie/privacy-statement-cork-county-council> or in hardcopy from any Council office; and to having your information processed for the following purposes:

Sensitive personal data being submitted in support of Declaration of Exemption Application

I give permission for my sensitive personal data submitted to the Planning Authority to be processed for the purpose stated above.

Signed	Michael O Callaghan
Date	23/06/25

You have the right to withdraw your consent by contacting the Planning Department, Ground Floor, County Hall, Carrigrohane Road, Cork. Tel: (021) 4276891 Email: planninginfo@corkcoco.ie or by contacting the Planning Department, Norton House, Cork Road, Skibbereen, Co. Cork. Tel: (028) 40340 Email: westcorkplanninginfo@corkcoco.ie However if consent to the use of personal data is withdrawn during the declaration of exemption decision-making process this information cannot be considered as part of the decision making process. Once a decision has been made, an applicant is not entitled to withdraw consent, as the right of erasure does not apply to a situation where processing is required for compliance with a legal obligation or for the performance of a task carried out in the public interest.

Please note that all information / supporting documentation submitted will be available publicly to view at the Planning Authority offices.

ADVISORY NOTES:

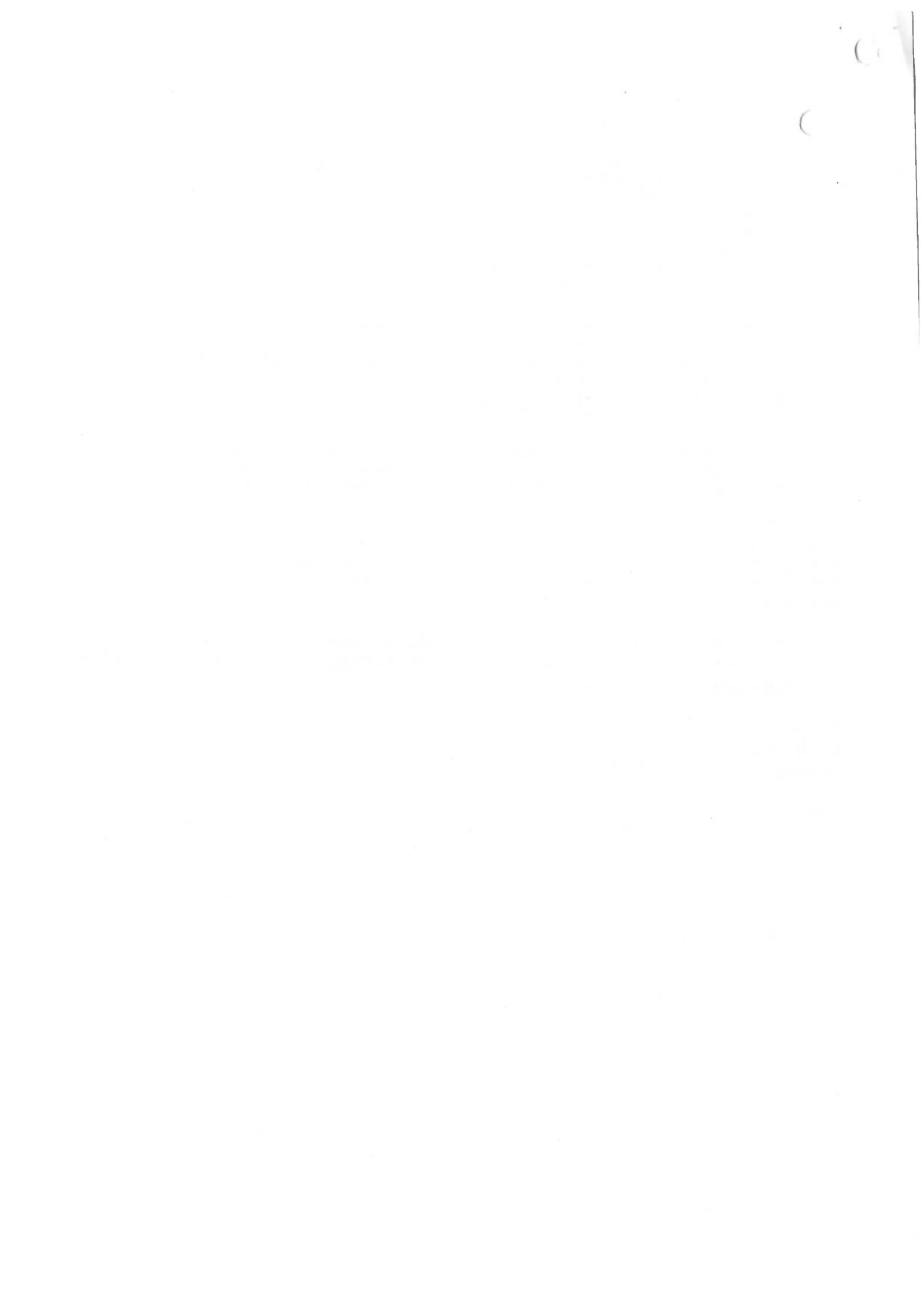
The application must be accompanied by the required fee of €80
The application must be accompanied by a site location map which is based on the Ordnance Survey map for the area, is a scale not less than 1:1000 and it shall clearly identify the site in question.
Sufficient information should be submitted to enable the Planning Authority to make a decision. If applicable, any plans submitted should be to scale and based on an accurate survey of the lands/structure in question.
The application should be sent to the following address:
The Planning Department, Cork County Council, Floor 2, Co. Hall, Carrigrohane Road, Cork, T12 R2NC; or for applications related to the Western Division, The Planning Department, Cork County Council, Norton House, Cork Road, Skibbereen, Co. Cork, P81 AT28.

- The Planning Authority may require further information to be submitted to enable the authority to issue a decision on the Declaration of Exemption application.
- The Planning Authority may request other person(s), other than the applicant; to submit information on the question which has arisen and on which the Declaration of Exemption is sought.
- Any person issued with a Declaration of Exemption may on payment to An Bord Pleanála refer a Declaration of Exemption for review by the Board within 4 weeks of the date of the issuing of the Declaration of Exemption decision.
- In the event that no Declaration of Exemption is issued by the Planning Authority, any person who made a request may on payment to the Board of such a fee as may be prescribed, refer the question for decision to the Board within 4 weeks of the date that a Declaration of Exemption was due to be issued by the Planning Authority.

The application form and advisory notes are non-statutory documents prepared by Cork County Council for the purpose of advising the type of information which is normally required to enable the Planning Authority to issue a Declaration of Exemption under Section 5. This document does not purport to be a legal interpretation of the statutory legislation nor does it state to be a legal requirement under the Planning and Development Act 2000 as amended, or Planning and Development Regulations, 2001, as amended.

9. I hereby declare that, to the best of my knowledge and belief, the information given in this form is correct, accurate and fully compliant with the Planning and Development Acts 2000, as amended and the Regulations made thereunder:

<i>Signed (Applicant or Agent as appropriate)</i>	Michael O Callaghan
Date	23/06/25



ADDITIONAL CONTACT INFORMATION TO BE SUBMITTED WITH APPLICATION

- The applicant(s) address **must** be submitted on this page.
- Only one copy of this section of the application form needs to be submitted**

(A) Applicant: (From Question 1 of Application Form)

Address (Required):	Knockskelly, Tullylease, Charleville, Co. Cork
Telephone No./Mobile No. (if any):	086-4179333
Email Address (if any):	coreyenterprises.ltd@gmail.com

(B) Person/Agent acting on behalf of the Applicant (if any):

Name:	Dennis O'Carroll
Address:	AG Design, Knockskelly, Cullen, Mallow, Co. Cork
Telephone No./Mobile No. (if any):	087-4486052
Email Address (if any):	agdesignplanning@gmail.com
Should all correspondence be sent to the above address? Please tick appropriate box. Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	
(Please note that if the answer is 'No', all correspondence will be sent to the Applicant's address)	

(C) Owner/s (required where applicant is not the owner):

Name:	Eily O'Callaghan
Address:	Knockskelly, Tullylease, Charleville, Co. Cork P56N526
Telephone No./Mobile No. (if any)	087 1214593
Email Address (if any)	

The provision of additional contact information such as email addresses or phone numbers is voluntary and will only be used by the Planning Authority to contact you should it be deemed necessary for the purposes of administering the application. These details will not be made available to any third party with the exception of An Bord Pleanala for the purpose of administering the appeal.

Fully completed application forms should be submitted to the relevant planning office.

CORK COUNTY COUNCIL

County Hall Office

West Cork Planning Office

Planning Dept. TEL: (021) 4276891
County Hall, FAX: (021) 4867007
Carrigrohane Road,
Cork, T12 R2NC

Norton House, TEL: (028) 40340
Cork Road, FAX: (028) 21660
Skibbereen,
Co. Cork, P81 AT28

WEB ADDRESS: www.corkcoco.ie

THE UNIVERSITY OF CHICAGO
DEPARTMENT OF CHEMISTRY
5800 S. DICKINSON DRIVE
CHICAGO, ILLINOIS 60637

RECEIVED
DATE: 10/15/78
BY: J. H. ...

TO: ...
FROM: ...
SUBJECT: ...

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Comhairle Contae Chorcaí
Cork County Council

Cordy Enterprises Ltd.,
C/O Denis O'Connor,
AG Design,
Knockduff,
Cullen,
Mallow,
Co. Cork.

21st July, 2025

Refusal
letter from
Cork County
Council



REF: D/273/25
LOCATION: Knockduff Upper, Meelin, Co. Cork.

RE: DECLARATION OF EXEMPTED DEVELOPMENT UNDER SECTION 5 OF THE PLANNING & DEVELOPMENT ACT 2000 - 2010.

Dear Sir,

On the basis of the information submitted by you on 26th June, 2025 the Planning Authority, having considered whether the use of an existing shed as a dry store/machinery shed at **Knockduff Upper, Meelin, Co. Cork** is or is not development or is or is not exempted development, has declared that it is **not exempted development**.

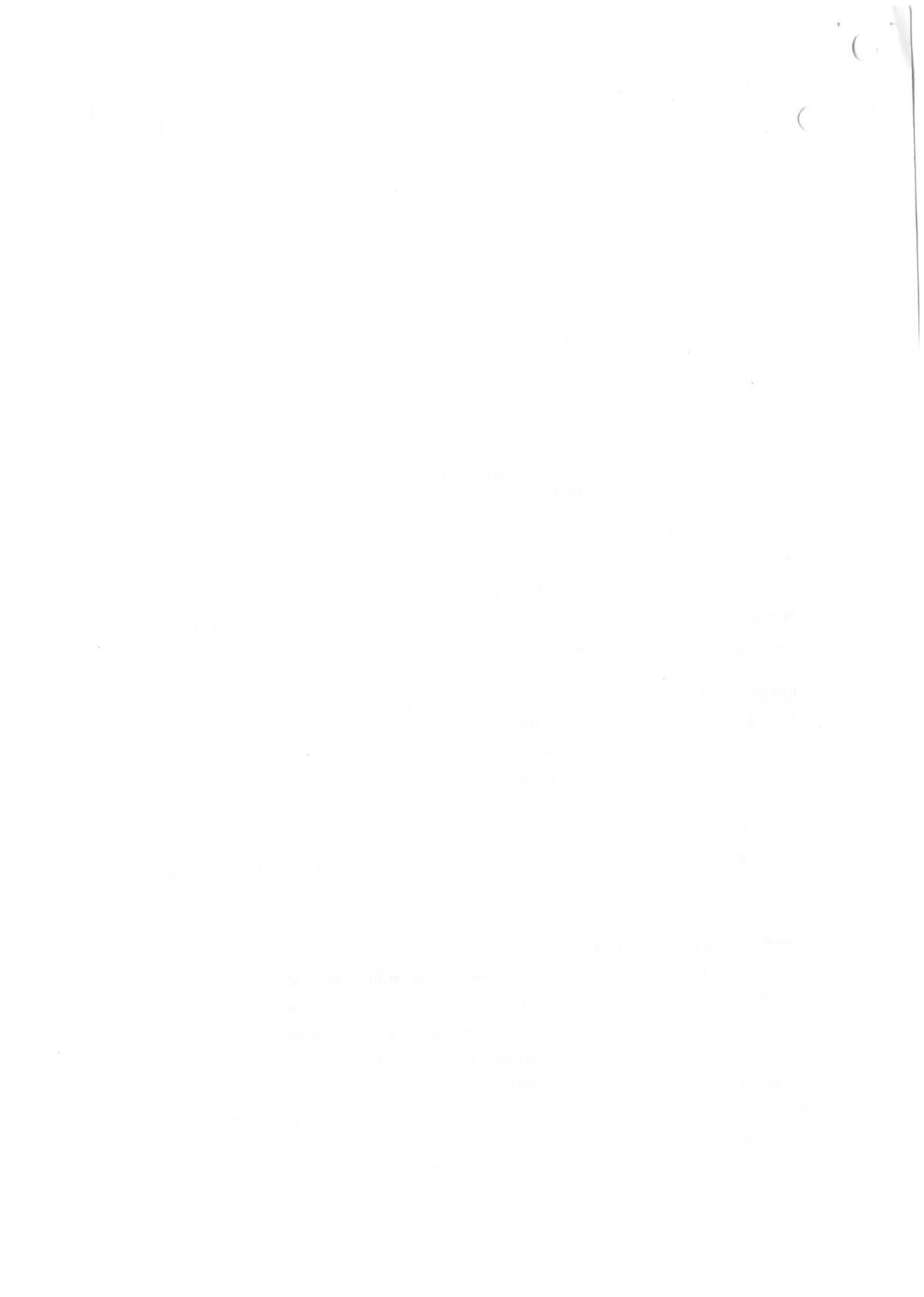
Reason for Decision

The Planning Authority in considering this referral, had particular regard to

- the details submitted to the Planning Authority on the 26th June, 2025
- Sections 1, 2, 3, 4 and 6 of the Planning and Development Act, 2000, as amended
- Class 9, Schedule 2, Part 3, Exempted Development of the Planning and Development Regulations 2001,
- Article 9(1)(a)(viii) Restrictions on exemption of the Planning and Development Regulations 2001, as amended;

The Planning Authority has concluded that:

The use of an existing shed as a dry store/machinery shed at **Knockduff Upper, Meelin** is 'development' as defined in Sections 2 and 3 of the Planning and Development Act. The development does come within the scope of Class 9 of the Exemptions listed in Part 3 Schedule 2 of the Planning and Development Regulations 2001 (as amended) however is restricted by Article 9 (1 (viii) of the Planning and Development Regulations 2001, as the shed is the subject of an Enforcement notice, therefore it comprises the alteration of an unauthorised structure and **is not exempted development**.



Please note that under Section 5 Subsection 3(a) where a declaration is issued under this section, any person issued with a declaration under subsection 2(a) may, on payment to the Board of such fee as may be prescribed, refer a declaration for review by the Board within 4 weeks of the date of the issuing of the declaration.

Yours faithfully,



**PIO TREACY,
A/SENIOR EXECUTIVE OFFICER,
PLANNING DEPARTMENT.**

In order to process your query, it may be necessary for Cork County Council to collect Personal information from you. Such information will be processed in line with our privacy statement which is available to view at <https://www.corkcoco.ie/privacy-statement-cork-county-council>

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Site Location Map



National Mapping Agency

CENTRE COORDINATES:
ITM: 529894,612815

PUBLISHED:
16/09/2019

ORDER NO.:
50084433_1

MAP SERIES:
6 inch Raaster
6 inch Raaster

MAP SHEETS:
CK005
CK014

PLANS: D. O'Connor, B.Tech. Agri Design Services. 087-4186652
APPLICANT: Corby Enterprises Ltd. Knockault Upper, Meelin, Co. Carr.

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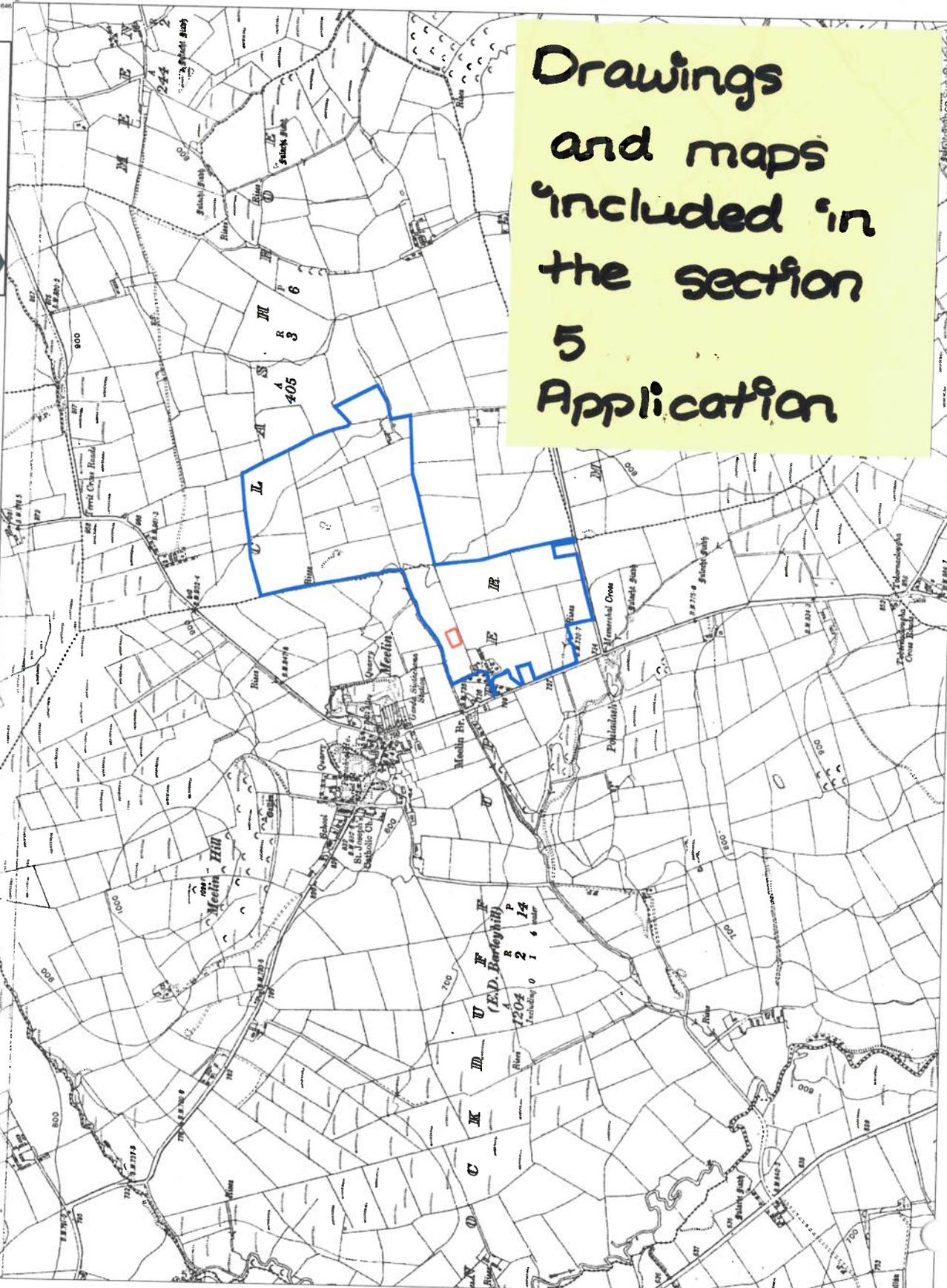
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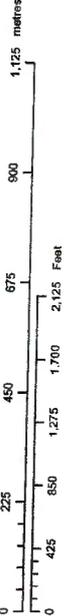
<http://www.osi.ie>;
search 'Large Scale Legend'

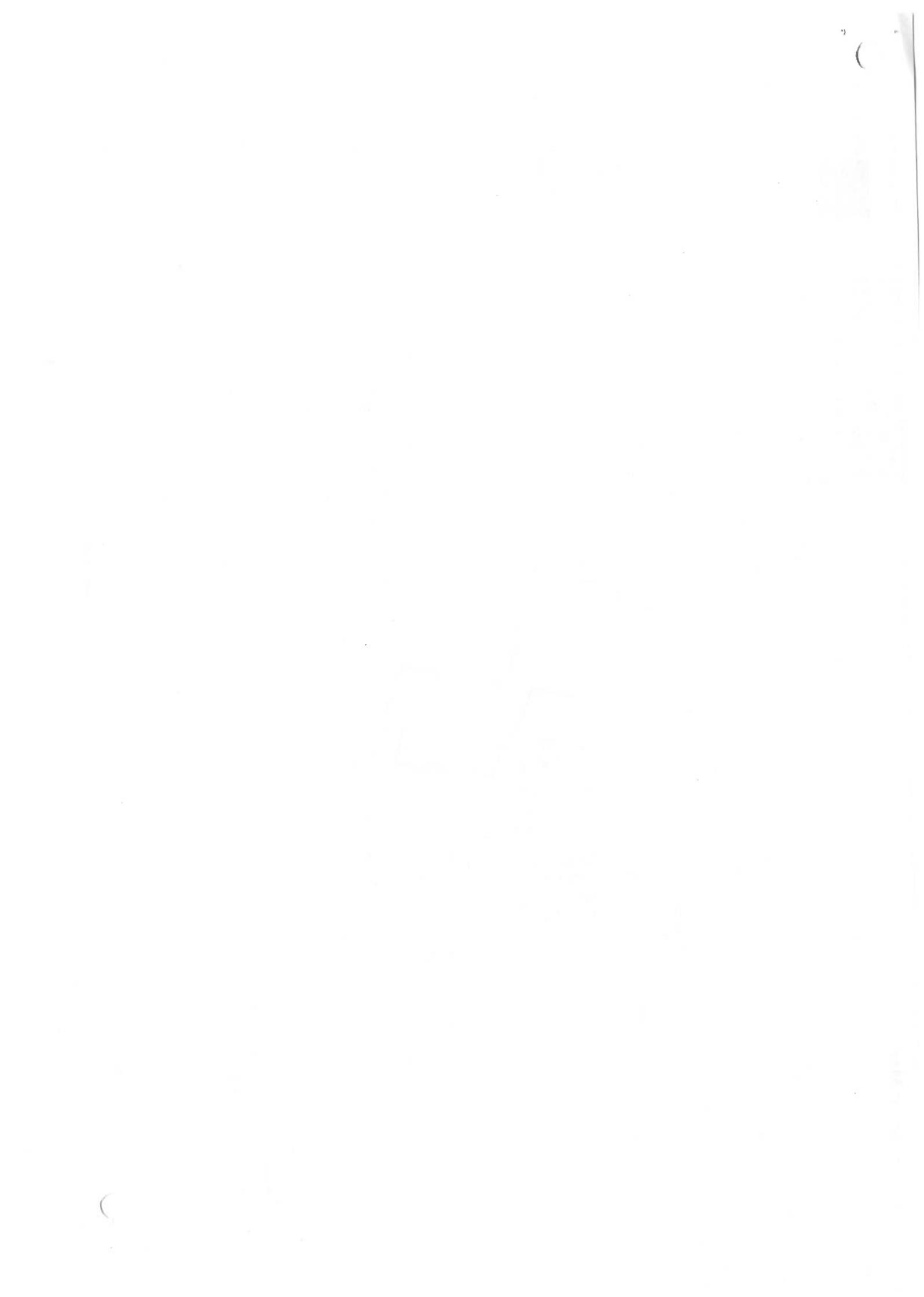
Drawings
and maps
included in
the section
5
Application



CAPTURE RESOLUTION:
The map objects are only accurate to the
resolution at which they were captured.
Output scale is not a true capture scale.
Further information is available at:
<http://www.osi.ie>; search 'Capture Resolution'

OUTPUT SCALE: 1:10,560





Planning Pack Map



CENTRE COORDINATES:
 ITM 529894.612815

PUBLISHED:
 16/09/2019

ORDER NO.:
 50084433_1

MAP SERIES:
 1:2,500
 1:2,500
 1:2,500

MAP SHEETS:
 5695-C
 5695-D

PLANS: D. O'Connor, B.Tech. Agri Design Services. 087-4186052
APPLICANT: Comby Enterprises Ltd. Knockduff Upper, Meelin, Co. Carl.

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 of a right of way.

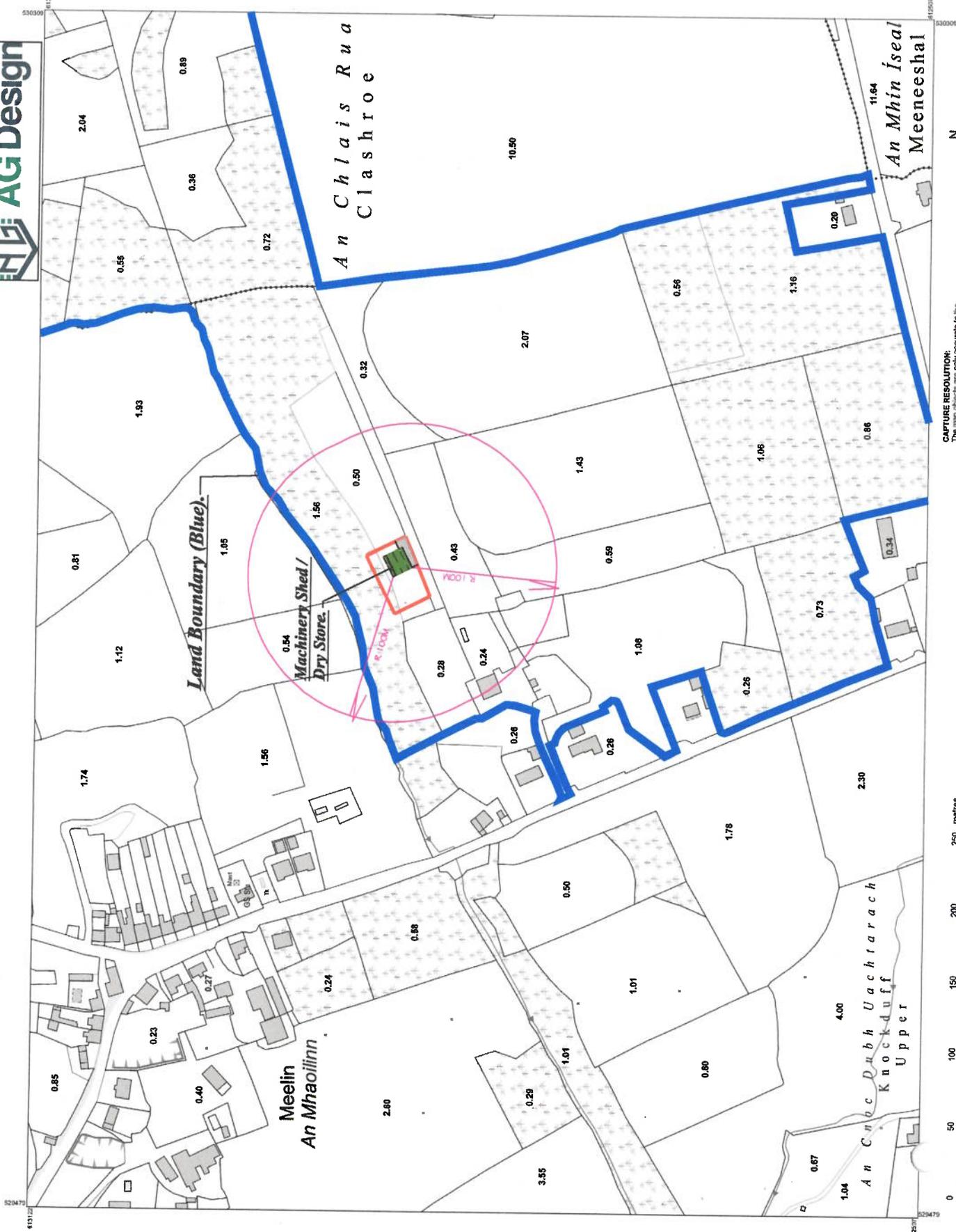
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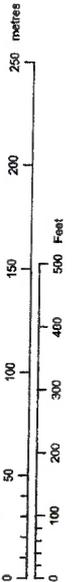
LEGEND:

<http://www.osi.ie>
 search 'Large Scale Legend'



CAPTURE RESOLUTION:
 The map objects are only accurate to the
 resolution of the data source.
 Output scale is not indicative of the capture scale.
 Further information is available at:
<http://www.osi.ie> search 'Capture Resolution'

OUTPUT SCALE: 1:2,500

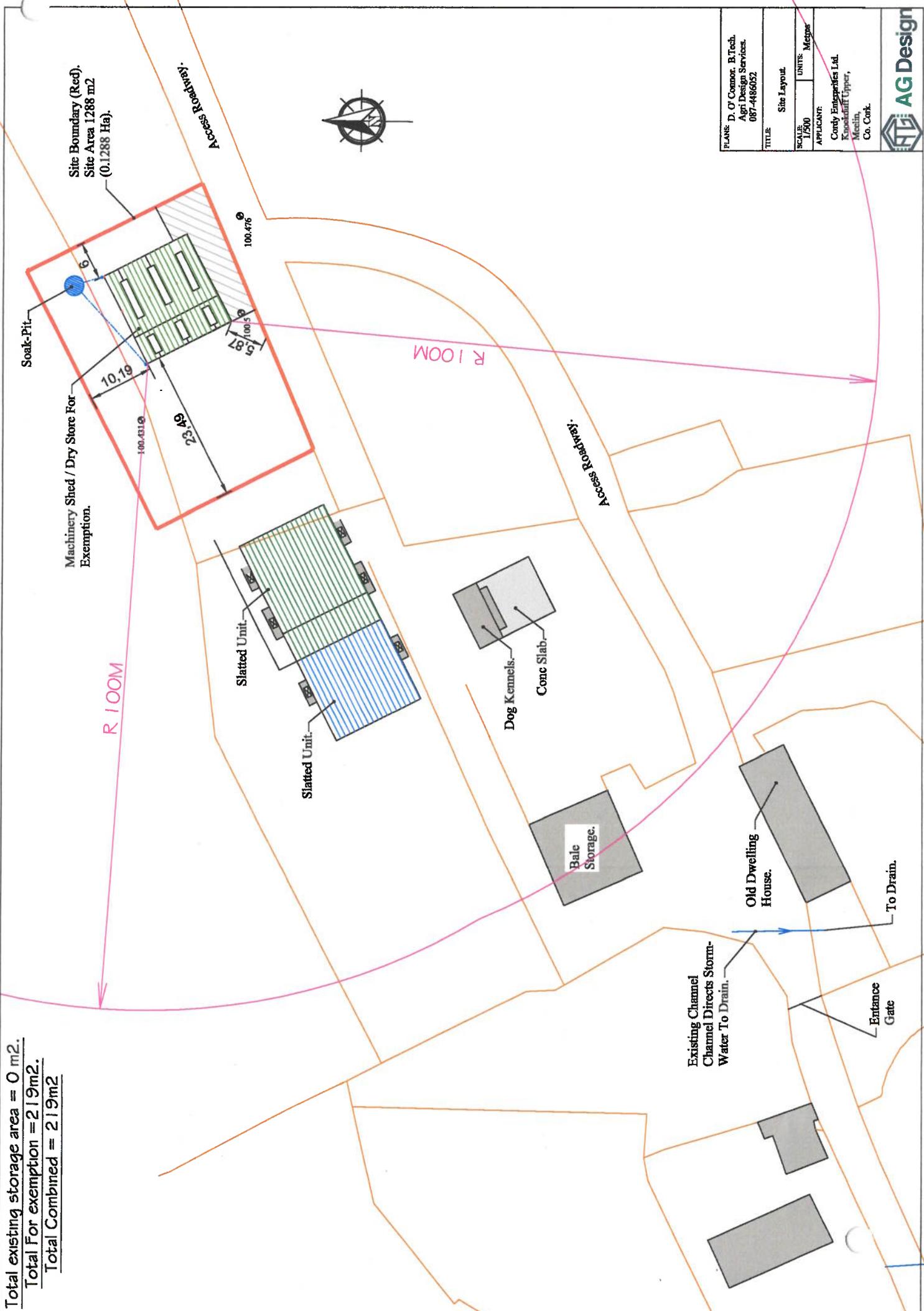


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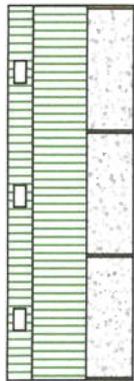
Total existing storage area = 0 m².
Total For exemption = 219m².
Total Combined = 219m²



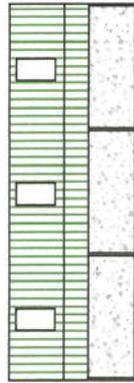
PLANS: D. O' Connor, B.Tech. AG Design Services. 087-4486052	
TITLE: Site Layout	UNITS: Metres
APPLICANT: Corry Enterprises Ltd. Keshmilt Upper, Meelin, Co. Cork.	

PLANS: D. O' Connor, B.Tech.
 Agri Design Services
 087-4486652

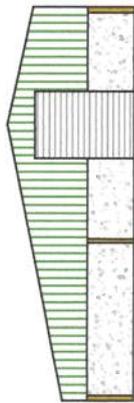
TITLE: Machinery Shed / Dry Store For Exemption.	
SCALE: 1:200	UNITS: Metres
APPLICANT: Coaly Enterprises Ltd. Knockduff Upper, Meelin, Co. Cork.	
	



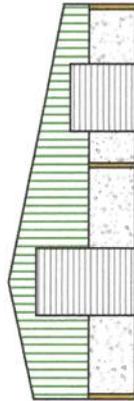
WEST ELEVATION.



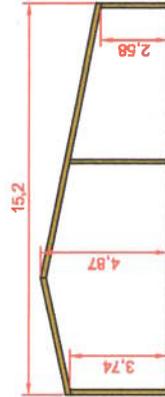
EAST ELEVATION.



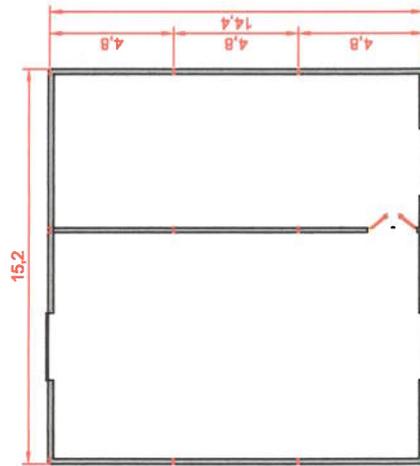
NORTH ELEVATION.



SOUTH ELEVATION.



Section thru' structure.



12/12/12

(



Photos
of the
Building



AN COIMISIÚN PLEANÁLA

14 AUG 2025

LTR DATED _____ FROM App

LDG- _____

ACP- 323389-25



AN COIMISIÚN PLEANÁLA

14 AUG 2025

LTR DATED _____ FROM App

LDG- 323389-25

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AN COIMISIÚN PLEANÁLA

14 AUG 2025

LTR DATED _____ FROM Agg

LDG-
ACP- 323389-25



AN COIMISIÚN PLEANÁLA

14 AUG 2025

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ACP- 323389-25



AN COIMISIÚN PLEANÁLA

14 AUG 2025

LTR DATED _____ FROM Agf

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ACP- 323389-25



AN COIMISIÚN PLEANÁLA

14 AUG 2025

LTR DATED _____ FROM App

LDG. _____

ACP: 323389-25